



BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

Advisory Opinion No. 10-05-004

A public employee asks for the Commission's advice regarding any possible conflicts of interest that might exist between his current County Government employment, and several non-County positions he holds in his neighborhood civic association and non-profit organizations. The public employee serves in the office of a Councilmember. He also volunteers as a member of his neighborhood civic association, a County advisory board, and three other nonprofits. He is not compensated for any of these volunteer positions.

The Commission has previously concluded that the ethics law does not prohibit a public employee from volunteering on a County board, commission, or committee. Section 19A-11(a)(1) generally prohibits a public employee from participating in any matter that affects any business or property in which the employee or a relative holds an economic interest. But a County board, commission, or committee is not a "business" under the ethics law. *Advisory Opinion No. 07-06-013* (June 29, 2007). The County Council has adopted a resolution (no. 11-108, adopted Feb. 24, 1987) limiting the circumstances under which it will confirm the appointment of a County employee to a board, commission, or committee, but that is outside the Commission's jurisdiction.

While the remaining entities (the neighborhood civic association and nonprofit organizations) are businesses under the ethics law, the employee has not described any facts indicating that there is a conflict between his County employment and volunteer service with these entities. As noted above, § 19A-11(a)(1) generally prohibits a public employee from participating in any matter that affects any business or property in which the employee or a relative holds an economic interest. However, the employee has not identified any matter he would participate in as a public employee that would affect any property or business in which he or a relative has an economic interest.


Section 19A-11(a)(2) prohibits a public employee from participating in a matter where he knows, or reasonably should know, that any party to the matter is a business in which he owes a duty of loyalty, or in which he or a relative has an economic interest. While the employee has previously served as an officer or director on the civic association and at least one of the nonprofits, and therefore owed the business a duty of loyalty, he has not identified any matter he

participated in as a public employee where the business was also a party to that same matter. The Commission has previously concluded that a business is not a “party” to a matter merely because it has an interest in the matter. Instead the term “party” refers to a more formal relationship between the business and the County, such as contract or legal proceeding where the County is also a party. *Advisory Opinion No. 05-01-001* (Feb. 8, 2005).

Finally, § 19A-15 prohibits an employee or former employee from disclosing confidential information. The employee has indicated that he does not share any confidential information that he may receive as a Council employee.

In reaching this decision the Commission has relied upon the facts as presented by the requester.

FOR THE COMMISSION:

A handwritten signature in black ink, appearing to read "Stuart Rick", is positioned above a horizontal line.

June 21, 2010

Date

Stuart Rick, Chair